



Law, Justice, and Indian Affairs Interim Committee

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56th Montana Legislature

SENATE MEMBERS

LORENTS GROSFIELD, PRESIDING OFFICER
SUE BARTLETT
JOHN BOHLINGER
DUANE GRIMES
MIKE HALLIGAN
LINDA J. NELSON

HOUSE MEMBERS

CAROL C. JUNEAU, VICE PRESIDING OFFICER
GAIL GUTSCHE
GARY MATTHEWS
DANIEL W. "DAN" MCGEE
JIM SHOCKLEY
JAY STOVALL

COMMITTEE STAFF

LEANNE KURTZ, RESEARCH ANALYST
VALENCIA LANE, STAFF ATTORNEY
JOHN MACMASTER, STAFF ATTORNEY
LOIS O'CONNOR, SECRETARY

MINUTES

PLEASE NOTE: These are summary minutes. Testimony and discussion are paraphrased and condensed. Exhibits and tapes are on file in the office of the Legislative Services Division.

Second Meeting of Interim
Montana Womens Prison
September 16, 1999
Billings MT

COMMITTEE MEMBERS PRESENT

Sen. Grosfield
Sen. Bartlett
Sen. Bohlinger
Sen. Nelson
Rep. Juneau
Rep. Matthews
Rep. McGee
Rep. Shockley
Rep. Stovall

COMMITTEE MEMBERS EXCUSED

Sen. Halligan
Sen. Grimes
Rep. Gutsche

STAFF MEMBERS PRESENT

Leanne Kurtz, Research Analyst
Susan Fox, Research Analyst
Connie Erickson, Research Analyst
Valencia Lane, Staff Attorney
Lois O'Connor, Secretary

VISITORS' REGISTER

See (ATTACHMENT #1)

COMMITTEE ACTION

- Approved that staff write a letter to the Architectural and Engineering Division of the Department of Administration strongly encouraging it to incorporate in the chapel design the use of the space as a place of worship that will accommodate the spiritual needs of all of the inmates
- Approved the proposed study plan with the caveat that it is a working plan and subject to change
- Approved that the staff attorneys review all DOC and DOJ rules on behalf of the Committee, provided interested Committee members with a list of all rules either agency is proposing, and report to the Committee in comment and question form any rule that the Committee needs to specifically review

CALL TO ORDER, ROLL CALL, AND INTRODUCTIONS

The meeting was called to order by Sen. Grosfield, Chair, at 8:40 a.m. Roll call was noted; Senators Halligan and Grimes and Rep. Gutsche were excused. (ATTACHMENT #2)

Following Committee, staff, and public member introductions, the Committee toured the Montana Women's Prison (MWP) which included the control room; laundry facilities; kitchen; infirmary; industries building; the high-to-medium, low-, and maximum-security units; and the parenting room. Members also heard testimony from a Native American inmate who was alleged raped at the Billings Prerelease Center.

HJR 37 (WOMEN'S PRISON STUDY RESOLUTION)

Jo Acton, Warden, Montana Women's Prison provided an overview of a package of information that included the Montana Women's Prison Program Summaries; Montana Department of Corrections (DOC) Objective Classification System: Revalidation and Recommendations; an inmate age and race classification sheet; an admissions and releases summary for fiscal year 1999; and DOC responses to issues and questions proposed in the HJR 37 - Women's Prison Study Plan. (EXHIBIT #1)

Report on Programs

Sen. Bartlett asked if the corrective thinking or moral reconnection therapy programs varied from those at the Montana State Prison (MSP). Ms. Acton that the same material was used for group therapy session at both the MWP and MSP. However, group sessions were different because group therapy is tailored to the members of the group.

Sen. Bohlinger asked if the 1-hour drug and alcohol treatment program and the 3-hour intensive chemical dependency program ran compulsory and elective respectively or was there a transition from one program to the other. Ms. Acton said that the only programs that inmates are required to attend are

criminal thinking errors, education programming if an inmate falls below a certain education level, and court-ordered programs before obtaining parole or prerelease. She added that inmates have the choice to attend programming; they cannot be made to attend.

Rep. Stovall asked about the Medicine Wheel program. Ms. Acton said that the program was recommended by the chemical dependency counselor who believed that the program model would be more effective in helping Native American women and the issues that surround them.

Rep. Juneau asked if any programs other than the parenting program were provided through the grant process. Ms. Acton said that the parenting program is currently the only grant program; mental health, educational, and medical services are under contract; and the chemical dependency programs offer one full-time state counselor and one-half time contract counselor. Rep. Juneau asked if the MWP was reviewing plans for postsecondary education classes. Ms. Acton said that MWP staff is pursuing a grant for postsecondary education classes through MSU-Billings and inmates are also pursuing correspondence courses.

Classification

Sen. Bohlinger asked why the average age of a female inmate was older than the average age of a male inmate. Ms. Acton said that the current MWP inmate population is 10% of the total number of females currently under supervision because many females who enter the corrections systems are usually placed in less restrictive environments such as probation or prerelease. If the female significantly fails her probation or prerelease or if she commits a new offense, there is the possibility that she will be sent to MWP. On the other hand, male inmates usually commit more serious crimes, have extensive criminal histories, or are given longer sentences.

HJR 37 - Women's Prison Study Plan

Rep. McGee asked why data was not available on the kinds of crimes committed by most females. Ms. Acton said that current data was just being compiled and it shows that between 40% and 43% of the female inmate population are incarcerated for violent offenses--felony assaults, sexual offenses, attempted homicide, and homicide. She would provide the Committee with a copy of the information.

MWP NEW BUILDING PROGRESS AND PLANNING

Scott Craige, Administrative Services Division, DOC, said that the Department was authorized under House Bill No. 5 for an expansion and remodel of the MWP. Funding included \$6.475 million in federal special revenue and \$2.9 million in general obligation bonds under House Bill No. 14. The

expansion will include a medium-secure housing unit containing 48 double-bunk cells; 12 single, maximum-security cells; 24 single full-security cells; 12 single mental health cells, a 5-cell intake unit; an infirmary; and miscellaneous improvements to the dining and kitchen areas, cold and dry storage, and the central control center.

Rep. McGee asked why a 3-story building was appropriate for a prison. Mr. Craigle said that a vertical structure was chosen to save money on construction costs and to avoid taking up valuable space on the MWP property.

Sen. Bartlett asked if a multiple-level building would have an impact on security costs. Mr. Craigle said that there would be cost savings in security as well because the security control room will be three stories.

Wyman McDonald, Coordinator of Indian Affairs, Governor's Office, expressed his concerns about the access or availability of traditional Native American cultural practices which has been a continuous problem within Montana's correctional system. He said that southwestern correctional facilities accommodated the Indian inmate concerns by designing new facilities with the cultural practice area, chapel, and medical facilities in the same place so that security issues could be built into the design. He said that although Indian tribes have different cultural practices, southwestern correctional institutions built sweat lodges and chapels on the East side because sunrise is very important to Native Americans.

Sen. Bartlett asked if there was a possibility that Mr. McDonald's suggestion could be built into the MWP design. Ms. Acton said that the new chapel was to serve as a nondenominational spiritual activities center that would be conducive to the Native American cultural practices. However, because the MWP is located within the Billings city limits, sweat lodges, by city ordinance, are not allowed. As an alternative to the sweat lodge, a sauna was suggested. However, some Native American factions within the prison population said that a fire was required for a sweat lodge and some said that a sauna would be fine. The discussion has been ongoing. She added that currently the MWP allows smudging and because a very high percentage of MWP population is Native American, MWP is trying to address the problem. As an addition, Mr. Craigle said that the chapel is a \$350,000 donation-authorized project and is not part of the total expansion appropriation. A chapel cannot be built unless the necessary funds are acquired.

Mr. McDonald said that to address the Native American cultural practices in the prison system would alleviate the most contentious issue facing Montana's correctional facilities, particularly at the MSP, because the issue, in itself, demonstrates separation of races in the state.

One Committee member asked if the chapel could be built on the property that the Department is currently negotiating to purchase and another member asked if it could be built in the exercise yard facing east within the boundaries of the security fence. Rick Day, Director, DOC said that if the proposed chapel is built independent of the main prison building, it would create a large supervision problem because it would require a separate and isolated security post and it would require the assumption that the inmates would not do anything inappropriate. In addition, the Department has had very little input on the design of the project which is under the umbrella of the Architectural and Engineering Division of the Department of Administration.

Pat Regan, former state Senator and a member of the Women's Prison Advisory Committee, said that the Committee is an informal group that meets once a month and it is strictly an advisory committee. Its agenda consists of issues surrounding the MWP, such as the prison projections and the prison industries. The Committee is also a forum to address concerns from other citizens.

Sen. Bohlinger asked if the Advisory Committee considered questions regarding the proposed prison chapel placement. Ms. Regan said placement of the prison chapel was not the function of the Advisory Committee. However, she suggested that because the chapel is being built on state land, the Architectural and Engineering Division has the final authority to make the decision as to where the chapel should be placed. She said that the concerns of the Native American population were very important.

DEPARTMENT OF CORRECTIONS UPDATE

Rick Day, Director, Department of Corrections (DOC), said that he was invited to appoint a travel team to Washington D.C. for a conference on women's corrections issues. He requested that a Committee member join the team and attend the conference. He said that a projections task force will also be established to set parameters to identify projected numbers for the correction population statewide. The projected numbers will be incorporated into the DOC's EEP process. He requested that a Committee member be appointed to the task force.

Mr. Day clarified that attending court-order programs is not voluntary and inmates at both the MSP and the MWP are required to participate in them. He said that any human being can make a choice, but if an inmate refuses to attend programming, there are disciplinary and classification impacts.

Mr. Day provided the following information:

- responses to questions asked by Committee members in advance of the September meeting; (EXHIBIT #2)
- minimum standards for custody levels; (EXHIBIT #3)

- Legislative Report: Montana Department of Corrections 1998 (EXHIBIT #4)
- a basic structure of the DOC, including its mission statement and goals; (EXHIBIT #5)
- a Department briefing to the Governor: Department of Corrections: Public Safety & Trust; (EXHIBIT #6)
- a VINE flow chart; (EXHIBIT #7)
- MWP Recidivism Rates -- Time Period July 01, 1996 to September 13, 1999; (EXHIBIT #8)
- an Institution Admissions and Releases for Fiscal Year 1999; (EXHIBIT #9) and
- a MWP--PSI--9,14,99--Query that includes personal data on women inmates coming into the system; (EXHIBIT #10)

Rep. Shockley said that prisons cost money, prerelease centers cost almost as much, and he asked if an in-between solution could be found, such as "Club Fed" established by the federal government for low-security inmates, that could be built on MSP property. Mr. Day said that one side of MSP is used for minimum security inmates who require less supervision but must still be in prison. He said that in many cases the federal government has the ability to adjust inmate classifications in a downward motion to accommodate its 20,000 inmates which justifies the lower man power and lower cost per day. Sen. Grosfield suggested that the topic be an agenda item for a future meeting.

Sen. Grosfield asked why the cost per day for MWP inmates was almost double that of MSP inmates. Mr. Day said that the \$92.31 cost per day for the MWP was agreed to by the OBPP, the Legislature, and the Department and the price includes all administrative overhead and medical expenses, with the largest difference between the two being the medical costs. He said that the Department is serious about the MWP expansion because if the Department can concentrate the number of inmates in one facility, costs per day will decrease. Sen. Grosfield requested information on the large discrepancy in the number of incarcerated women compared to men.

Rep. Juneau requested information on how many male and female juvenile offenders were placed in community corrections programs, particularly Native American offenders, so that she could compare statistics on whether the 30% to 40% Native American inmates in the MWP and MSP was consistent in the juvenile population. She also requested information on how many minority employees MWP and MSP had, in particular, how many were Native American. Mr. Day said that he would provide the information.

PUBLIC COMMENT

Joan Hurdle, Representative House District 13 and sponsor of HJR 37, Billings, said that she was pleased with the proposed study plan, particularly in the area of needs of women inmates. She said that the Committee's goal should:

- focus on the empowerment of women inmates to make them self-supporting, tax paying, and confident parents;
- focus on the physical fitness and physical needs of women inmates;
- focus on parenting programs and make them a part of the programming budget;
/ a parenting pod for minimum security inmates who have earned the privilege of extended visits with their children;
- focus on the industries program which currently accommodates businesses;
/ focus on job and vocational training and postsecondary education programs;
- focus on mandatory and extensive drug and alcohol treatment for women inmates (one and one-half counselors is not sufficient);
- focus on data collection beyond system-wide computer type data;
- focus on the improvement of the MWP's employee disregard for the women inmates;
/ possible inmate access to an outside advocacy group.

Rep. Hurdle provided a chronology of the alleged rape of the Native American inmate at the Billings Prerelease Center by a prerelease employee. It is as follows:

- The inmate was released to the Billings Prerelease Center in October 1998 and was allegedly raped by an employee of the prerelease.
- The inmate remained at the prerelease for two weeks before fleeing to the Blackfeet Reservation and her family.
- The inmate was returned to the MWP in late November but needed permission to receive medical care.
- Medical care which may have proved or disproved the inmates claim was not received until late March 1999.

Rep. Hurdle expressed her concerns about Department and prison official response time to the alleged incident and the Department employees' disregard for the people who are entrusted into its care. She said that representatives from the Public Defender's Office, the County Attorney's Office are contract providers and the citizens' voice as a part of the Community Corrections Division and the Probation and Parole Bureau. In addition, representatives from the Department and MWP have been involved with the processing of the incident and should have been speedier.

Both Director Day and Warden Acton responded that the alleged rape happened at the Billings Prerelease Center which is a private-nonprofit facility under contract with the Department. Once Department officials were notified of the alleged incident, the inmate received the necessary medical care and the incident was reported to local officials. At that point, it became a local government investigation and the Department is no longer involved in the investigation.

Cheryl Hobart, Department of Corrections, Billings, shared her observations and experiences as a long-time Department employee. She said that the demographics and chronology of women's corrections

has changed dramatically since she began her employment. She also said that the care, concern, and investment of the staff in the facilities is top-grade and staff are very concerned about providing the best quality of services for the dollars that they are allowed.

Betty Waddell, Montana Association of Churches, expressed her concern about what is happening to the children of women inmates. She requested that more efforts be put toward drug and alcohol abuse treatment, to review more after care mentoring programs, to review the possibility of keeping women out of prison if they have violated parole instead of bringing them into the prison system, and she requested that the Committee discuss the proposed design of the interfaith chapel to include the Native American prison population.

Wyman McDonald requested that the Committee discuss the improvement of physical fitness programs to prevent depression within the prison system. He also requested that the Committee discuss the placement of the proposed interfaith chapel, the issue of fair and equal access to required treatment programs within the institutions, and review the fact that Native Americans are disproportionately represented in incarceration than the total Indian population of the state. He said that if it is true that Indians are spending longer periods of time in high security and are receiving longer sentences for a comparable crime, it is costing all Montanans more money out of their tax dollars. He said that it is time that public officials recognize the problem and begin to address it.

Committee Discussion

Leanne Kurtz, Research Analyst, Legislative Services Division, provided a copy of HJR 37 - Women's Prison Study Plan. (EXHIBIT #11)

Sen. Bohlinger requested that the placement of the interfaith chapel, as it relates to the Native American population, be included in the HJR 37 study.

Rep. Matthews suggested that the Committee review whether the interfaith chapel placement would conflict with DOC policy, particularly in the area of security.

Mr. Day said that the chapel project, including architectural fees, is privately funded and it is not under the control of the Department. However, because the Department has control over security issues, it can encourage chapel placement. Sen. Bartlett added that because the chapel is proposed to be built on state land within a secure facility, she felt that the DOC should have a certain degree of input as to the design of the chapel and its location.

Sen. Bohlinger **moved** that staff write a letter to the Architectural and Engineering Division of the Department of Administration strongly encouraging it to incorporate into the spiritual center design the use of the space as a place of worship that will accommodate the spiritual needs of all of the inmates. Motion carried with Rep. McGee voting no.

Committee members also requested information on the prison industries program and whether it provided job training for inmates, requested information on the differential treatment of inmates in the areas of job and treatment program access, and requested information on the number of women inmates in court-ordered programs and what types of programs they were. An updated version of HJR 37 - Women's Prison Study Plan will be sent to Committee members prior to the next meeting.

EMINENT DOMAIN STUDY

Ms. Kurtz provided a copy and overview of Nature and Scope of the Environmental Quality Council Eminent Domain Study -- HJR 34. (EXHIBIT #12) She said that the Environmental Quality Council (EQC) appointed an Eminent Domain Subcommittee to be held in conjunction with the full EQC meetings. The proposed work plan suggests 7 meetings along with 10 public hearings. Ms. Kurtz provided the following Committee options: (1) appoint LJAC members to serve on the Eminent Domain Subcommittee; (2) the Committee could receive regular reports from the Subcommittee; or (3) if an issue arises that is not within the purview of the Subcommittee, it could refer the issue to the LJAC.

Senator Mack Cole, Chairman, Eminent Domain Subcommittee, said that EQC has two major subcommittees -- one is reviewing the Montana Environmental Protection Act and the other is reviewing eminent domain. He said that the most contentious issues in the state surrounding eminent domain are the Conoco Pipeline, the pipeline east of Billings, and the Tongue River railroad. He said that the purpose of the study is to review current eminent domain statutes and to make changes if necessary to make the issue more palatable for all concerned--property owners, environmentalists, and industry--and to address the lack of education regarding the eminent domain issue.

Following a thorough discussion of the Committee's involvement in the eminent domain study, the following was recommended:

- that Committee members receive written information (agendas and staff reports, etc.) on the study as it progresses;
- that the Committee receive updates from members of the Eminent Domain Subcommittee at all future meetings and that it have the opportunity to offer suggestions and direction; and
- that if the eminent domain issue impacts reservation land, the LJAC should be included in the process, have input, and have a vote.

Representatives McGee, Shockley, and Gutsche were appointed to the Eminent Domain Subcommittee and will update the Committee at its future meetings. Staff will also send a letter to the Subcommittee relaying the LJAC's decisions.

INTERIM WORK PLAN PRESENTATION AND DISCUSSION

Mr. Kurtz provided a visual representation and overview of the 1999-2000 Interim Work Plan Proposal. (EXHIBIT #13)

Rep. Stovall was concerned about certain aspects of the speed limit law and asked if the issue were under the purview of the Committee. Ms. Kurtz said that because the LJAC has oversight duties of the Department of Justice (DOJ), the speed limit law would fall under its purview. However, the Transportation Commission and the Department of Transportation (DOT) also sets certain speed limits and would fall under the oversight umbrella of the Revenue and Taxation Committee. Staff will contact the DOJ and relay the Committee's concerns.

Rep. McGee requested that staff send the enabling legislation that pertains to each subject that the Committee is responsible for. He **moved** to adopt the proposed study plan with the caveat that it is a working plan and subject to change.

Staff will also write a letter to the Office of Indian Affairs requesting that it be kept informed of any developments regarding the proposed Commission on Economic Development (HB 670)

Administrative Rule Review

Valencia Lane, Staff Attorney, Legislative Services Division, said that the former Administrative Code Committee (ACC) reviewed all administrative rules filed by Executive Branch agencies with the Secretary of State for publication. With the reorganization of interim committees under SB 11, the ACC was abolished and rulemaking oversight duties were assigned to the various interim committees. The LJAC was assigned rulemaking oversight of the DOC and the DOJ.

Ms. Lane said that the Montana Administrative Procedure Act (MAPA) establishes procedures that agency must follow when they adopt rules. MAPA does not give rulemaking authority. However, the Legislature, through certain statutes, delegated its authority to state agencies to adopt law through rules. She said that once rulemaking authority is granted by the Legislature and in order for rules to be valid, agencies are required to perform certain duties. Under MAPA, proposed rules must cite specific

authority to adopt the rules, cite specific statutory citations to the statute that they are implementing by the adoption of the rule, must not repeat existing statutory language, and they must be reasonably necessary.

Ms. Lane said that in the past, legislative staff attorneys reviewed the rules and presented a rule summary of every rule that was proposed by every agency that included what agency was adopting the rule, what rule was being adopted, and its purpose. Staff also included any comments about any concern they may have had regarding a proposed rule. A decision was made by the ACC and the Code Commissioner that it was unnecessary to summarize every rule in writing and they directed staff attorneys to review the rules to see if they conformed to MAPA requirements and call the agencies if problems with a rule were found. Within six months, agencies must file a final notice of adoption and must address, either orally or in writing, every question that was raised about a rule. Once the final notice of adoption is presented and published, the rule becomes law.

Ms. Lane said that the Committee also has powers of oversight which are: (1) the Committee may request and obtain an agency's rulemaking records for the purpose of review and compliance with MAPA; (2) prepare written recommendations for the adoption, amendment, or rejection of a rule and submit the recommendations to the agency; (3) submit oral or written testimony regarding a rule; (4) require that a rulemaking hearing be held; (4) institute, intervene in, or otherwise participate in proceedings involving MAPA in state and federal courts and administrative agencies; and (5) review the incidence and conduct of administrative proceedings under MAPA. Ms. Lane added that as a Committee, it can object to a rule and take a poll of the Legislature to determine if a purposed rule is within the scope of the agency's authority to adopt rules. If a rule is objected to, the objection is published along with the adoption of the rule. If the rule is challenged in court, there is a conclusive presumption that the rule is invalid and outside the scope of the intended legislative authority.

Citing 5-5-215, MCA, relating to the Committee's function regarding rule review and its responsibilities Ms. Lane requested that the Committee make two determinations: (1) decide its own role in reviewing rules and monitoring the operation of the assigned agencies, and (2) what role it wants staff to play in assisting the Committee.

As an example, Ms. Lane spoke about the recent rules adoption by the DOC related to the licensing of private prisons. She said that in the past, the DOC has been exempt from MAPA in its rules that deal with supervision and administration of the penal institution with regard to the institutional supervision, custody, control, care, or treatment of juveniles or prison inmates. However, the DOC is currently regulating a private industry (the private prison in Shelby) and it is required to make rules that will regulate

how a private corporation can get licensed. The DOC published a notice of intent to adopt private prison licensing rules in July or August. The rules were reviewed and comments were made to the DOC about American Correctional Association (ACA) accreditation and the MAPA requirement that the DOC has to state authority for the rules and cite the statutes that are being implemented. She said that the issue is minor in the fact that the DOC did not cite the right statutes but it is not a minor issue when MAPA states that the right statutes must be cited properly or the rule could be subject to challenge in court.

Ms. Lane said that there was a deadline for when the DOC was to file its notice of adoption and there was a deadline of September 1 when the private prison was suppose to be in operation. As a result, there was an attempt to adopt the rules as emergency rules which is allowed under MAPA . The rules become immediately effective and the rules can be made official at a later time. However, emergency rules can only be adopted in cases of public exigencies and public emergencies. It was determined that the DOC could not adopt the rules as emergency rules because the DOC knew for a year that the rules had to be in place and the emergency was the DOC's not getting the rules done properly and on time. The DOC reconsidered and decided not to adopt the rules as emergency rules but instead got its final adoption notice in on time. However, when the DOC filed its final notice of adoption and she reviewed them again, she found that certain citations were not cited correctly. Her concern is that there was an opportunity to correct the oversight and omission and the DOC has lost the opportunity. Ms. Lane said that the rules are new licensing rules, the DOC is new to the rulemaking process, and she felt that the DOC was having difficulty getting a handle on the MAPA process. Ms. Lane said that she has spoken with Mr. Day about her concerns and he volunteered that within a week or two he and his staff would meet with her to work out the rules so that they better comply with MAPA requirements.

Rep. Shockley asked what would happen if the Committee held the Department's "feet to the fire". Ms. Lane said that the Committee could object to the rules but if they are challenged in court, there is a conclusive presumption that the rules are invalid. She said that the Committee must think in terms of what is best for the state and not how it can punish the DOC. Rep. Shockley asked if the Department could be given a deadline to fix the rules. Ms. Lane said that there are publishing deadlines and the Department could republish the intent to amend the rules or redo the rules.

Rep. McGee asked how long it would take to fix the rules. Ms. Lane said that the minimum time is 4 to 6 weeks but it could be longer. Rep. McGee asked if the private prison in Shelby was currently operating. Mr. Day said that there are 80 inmates currently in the Shelby facility and it will have 250 by the end of the month. He asked that the Department be allowed to make the corrections to the rules and republish them. Rep. McGee asked about the state's current liability with regard to the rules. Ms. Lane said that

before there is liability, there must be damages and she did not know if damages would flow from the error. Rep. McGee said that his concern was to protect the state from liability and he asked how the Shelby prison could be in operation without putting the state at risk. Mr. Day said that although he appreciates the Committee's concern, the rules in question have been adopted, they are in effect, and a provisional license has been issued to the Shelby facility. Questions about the rules surround specific sections within the rules that contain technical errors but that does not mean that the entire rule is in jeopardy. He felt the best way to proceed is to identify the specific areas that need amending and file the rule adoption requests.

Although Rep. Shockley agreed that just because one part of a document was incorrect that it makes the whole document null and void, he requested a copy of the rules in question so that the Committee knows the significance of them.

Rep. McGee asked why the rules could not be adopted as emergency rules. Ms. Lane said that the Committee would have to ask the Department to adopt the amendments as emergencies. However, if the Committee went on record as saying that it thinks the rules are invalid because they do not follow the MAPA requirements, it must question whether it is jeopardizing the license of the Shelby facility. In addition, she did not believe that there was an emergency in this case.

Rep. Shockley said that he wanted to know in detail how the problem with the rule came to be. He said that although the Department has the responsibility to fix the problem, it was the Committee's responsibility to see how it was fixed.

Rep. McGee recommended that the Committee do nothing with the issue at the moment until Ms. Lane meets with Mr. Day and his staff to facilitate the adoption of the amended rules and correct any problems that they find.

Rep. McGee **moved** that staff attorneys review all DOC and DOJ rules on behalf of the Committee, alert the Committee of any rule that either agency is proposing, and report to the Committee in comment and question form any rule that the Committee needs to specifically review. Motion carried unanimously.

There being no further business, the meeting adjourned at 5:40 p.m.

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